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In re Application of	:	
STOCCHI	:	
Application No.: 10/530,059	:	DECISION
PCT No.: PCT/IB2004/002002	:	
Int. Filing Date: 16 June 2004	:	
Priority Date: 03 July 2003	:	
Attorney's Docket No.: 270155US6PCT	:	
For: FILLING VALVE FOR THE ASEPTIC	:	
FILLING OF ALIMENTARY LIQUIDS	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT" filed in the United States Patent and Trademark Office (USPTO) on 08 September 2006.

BACKGROUND

On 16 June 2004, applicant filed international application PCT/IB2004/002002, which designated the United States and claimed a priority date of 03 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 January 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 January 2006.

On 04 April 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, the surcharge under 37 CFR 1.492(h), and an assertion of small entity status.

On 15 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 12 July 2006, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 15 November 2005.

On 08 September 2006, applicants submitted the instant "PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT".

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been met.

As to item (3), MPEP § 711.03(c), para. I.A. states that "[f]or example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." Such a docket record has been provided. Thus, item (3) has been met as well. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 12 July 2006 is hereby VACATED.

Declaration of Inventors

The declaration of inventors filed 08 September 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.



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